

is not enough in many parts of the country where a living wage that would cover housing, schooling and healthcare needs might have to be twice as high or more.

But the increase to \$7.25 would restore the value of the minimum wage that inflation has eroded since the last increase nearly a decade ago. It would mean an additional \$4,200 in annual earnings for a full-time, minimum wage worker. It would trigger additional increases in the earned-income tax credit for low-income parents.

Today, a family of four with one minimum-wage earner lives in poverty. With the increase in the minimum wage, that family would be lifted 5 percent above the poverty line instead of being 11 percent below the poverty line in 2009, as it would be under current law.

The minimum wage cannot be the end of our commitment to help working families. But it is an important place to start.

Mr. DORGAN. Madam President, I voted in opposition to the Gregg amendment, No. 101, which he said would establish a legislative line-item veto.

However, the Gregg amendment is not a line-item veto at all. It is an enhanced rescission proposal that would give the President unprecedented powers to wait for up to 1 full year before unilaterally deciding to rescind areas of spending that Congress has previously determined are in the public interest.

That is not what I call a line-item veto.

A line-item veto would give the President short term authority when he is signing legislation to extract certain portions of that legislation. But to suggest the President should have the power to decide, up to 1 year after the appropriations process has been completed, that he wishes to withhold certain areas of expenditures is one of the most unusual transfers of power from the legislative branch to the President that I have ever seen proposed.

The power of the purse belongs to the legislative branch, and I am willing to work with the legislative branch and the White House to try to find a way to reduce inappropriate Federal spending. But I am not willing to give the President the authority that would allow him to use a fast track process or enhanced rescission authority to undermine Social Security or take any number of other actions that would give a President virtually unlimited powers of the purse.

That is not the way the Constitution intended the separation of powers to work and I could not support the overreaching amendment offered by Senator GREGG.

#### ORDER OF PROCEDURE

Madam President, if I may, I ask unanimous consent that at 4:10 p.m., the Senate proceed to executive session to consider en bloc Executive Calendar nominations 6 and 7; that there be 10

minutes for debate equally divided between Senators LEAHY and SPECTER or their designees; and that upon the use or yielding back of the time, the Senate proceed to vote on the nomination of Lisa Godbey Wood to be United States District Judge, to be followed immediately by a vote on the nomination of Philip S. Gutierrez to be a United States District Judge; that motions to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative business; that all time consumed in executive session count postcloture; and that there be 2 minutes between each vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

#### NOMINATION OF LISA GODBEY WOOD

Mrs. FEINSTEIN. Madam President, one of these judges, Philip Gutierrez, is for the central district of California. Vice Judge Terry Hatter, who at one point was the chief judge, a very good chief judge, has retired. Mr. GUTIERREZ is one of two judicial emergencies we need to fill. His nomination went through the special commission that we have, which is Republicans and Democrats who screen these judicial nominations. He has served on the Los Angeles County Superior Court. He also served on the municipal court. He is a Los Angeles native. He graduated from Notre Dame and UCLA Law School. I strongly support his nomination.

Madam President, I yield the floor.

Mr. CRAIG. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ISAKSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NOMINATION OF PHILIP S. GUTIERREZ

Mr. ISAKSON. Madam President, in a few moments the Senate will be considering the vote on the confirmation of Lisa Godbey Wood as a judge in the State of Georgia. First of all, I wish to thank the chairman of the Judiciary Committee, Senator LEAHY, for all the commitments he made last year as ranking member and that he has followed through on this year as chairman to bring this judge's confirmation to the full Senate for a vote. Senator LEAHY has been a gentleman. He has been diligent. He has lived up to every responsibility he accepted. I, personally, along with Senator CHAMBLISS, am very grateful for the opportunity to confirm this outstanding jurist.

I also wish to say that Lisa Godbey Wood brings to the bench for the Federal courts of the United States of America the integrity, the intellect, the sense, and the judgment that all of us seek in a fine judge. I am pleased to stand before the Senate today to commend her to each and every Member of

the Senate, and my sincerest hope is that her confirmation will be a unanimous vote.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

LISA GODBEY WOOD TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF GEORGIA

PHILIP S. GUTIERREZ TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations en bloc, which the clerk will report.

The legislative clerk read the nomination of Lisa Godbey Wood, of Georgia, to be United States District Judge for the Southern District of Georgia, and Philip S. Gutierrez, of California, to be United States District Judge for the Central District of California.

Mrs. FEINSTEIN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Madam President, today the Senate is considering the first judicial nominations of the year. If these nominees are confirmed, it will be the 101st and 102nd while I have served as Judiciary Committee Chairman under this President. If confirmed, these nominees will bring the total number of President Bush's nominees confirmed during his tenure to 260.

Last Thursday, the Judiciary Committee held its first business meeting of the year. We were delayed a few weeks by the failure of the Senate to pass organizing resolutions on January 4, when this session first began. The Republican caucus had meetings over several days after we were in session before finally agreeing on January 12 to S. Res. 27 and S. Res. 28, the resolutions assigning Members to Senate committees.

The Judiciary Committee has traditionally met on Thursday. Regrettably, the delay in Senate organization meant that I could not notice or convene a meeting of the Committee the morning of January 11, as I had hoped. We devoted the intervening Thursday to our oversight hearing with the Attorney

General. January 18 was the date the Attorney General selected as most convenient for him, and we accommodated him in that.

Accordingly, it was last Thursday that we were first able to meet. At our first meeting, I included on our agenda the nominations of five men and women to lifetime appointments as federal judges. Three were for vacancies that have been designated judicial emergencies by the Administrative Office of the Courts. Before proceeding, I inquired of each Member of the Committee whether a hearing was requested on these nominations this year. They were each nominees we had considered in the Committee last year. They were returned to the President without Senate action when Republican Senators objected to proceeding with certain nominees in September and December last year. Last week I thanked the Members of the Judiciary Committee for working with me to expedite consideration of these nominations this year. In particular, I extend thanks to our new Members, the Senators from Maryland and Rhode Island.

All five nominations were not sent to the Senate until January 9. We have moved promptly to vote to report them on January 25 and now begin the process of final Senate consideration. I know from last year that Senators CHAMBLISS and ISAKSON are strong supporters of Ms. Wood's nomination to fill the emergency vacancy in Georgia. I appreciate that they have both worked with me and am delighted that hers is the first nomination to be considered by the Senate this year.

The second nomination we will consider is that of Philip S. Gutierrez, another nominee to a seat deemed to be a judicial emergency. He has been nominated to the U.S. District Court for the Central District of California after a distinguished career in private practice and as a Los Angeles County Superior and Municipal Court judge. While on the Superior Court, Judge Gutierrez served as a founding member of the Judicial Ethics Committee, which developed a curriculum for ethics training for every California judicial officer, and devoted significant time to improving the court system statewide. Judge Gutierrez, a Los Angeles native, is a graduate of the University of Notre Dame and UCLA Law School.

This new Congress presents an opportunity for a fresh start on judicial nominations, one that emphasizes qualifications and bipartisan consensus over political game-playing by the other side. President Bush made the right decision in not resubmitting this year several controversial and troublesome nominees who failed to win confirmation from a Republican-controlled Senate. Of course it is unfortunate that we lost many months of valuable time on those failed nominations. We spent far too much time engaged in political fights over a handful of nominees in the last Congress, time the Senate could have spent making progress on

filling vacancies with qualified consensus nominees.

I do wish the President had gone further and renominated three nominees for vacancies in the Western District of Michigan who were reported out of Committee, but left pending on the Senate's Executive Calendar when some on the other side of aisle blocked the nomination of Judge Janet Neff for one of those seats. All three nominations were for vacancies that are judicial emergency vacancies—three in one federal district. The Senators from Michigan had worked with the White House on the President's nomination of three nominees to fill those emergency vacancies. The Judiciary Committee proceeded unanimously on all three. Working with then-Chairman SPECTER, the Democratic Members of the Committee cooperated to expedite their consideration. On September 16, we held a confirmation hearing for those three nominees on an expedited basis and reported them out of Committee on September 29.

Regrettably, rather than meet to work out a process to conclude the consideration of judicial nominations last session, the Republican leadership apparently made the unilateral decision to stall certain of these nominations, including those for the judicial emergencies in the Western District of Michigan and, in particular, the President's nomination of Judge Janet Neff. After the last working session in October, I learned that several Republicans were objecting to Senate votes on some of President Bush's judicial nominees. According to press accounts, Senator BROWNBACK had placed a hold on Judge Neff's nomination, even though he raised no objection to her nomination when she was unanimously reported out of Judiciary Committee. Later, without going through the Committee, Senator BROWNBACK sent questions to Judge Neff about her attendance at a commitment ceremony held by some family friends several years ago in Massachusetts. Senator BROWNBACK spoke of these matters and his concerns on one of the Sunday morning talk shows.

I wondered at the end of the last Congress whether it could really be that Judge Neff's attendance at a commitment ceremony of a family friend failed some Republican litmus test of ideological purity, that her lifetime of achievement and qualifications were to be ignored, and that her nomination was to be pocket filibustered by Republicans.

I do not know why the President has not chosen to renominate Judge Neff or the other two Western District nominees. But the approach to nominations we saw in the last Congress, of using nominations to score political points rather than filling vacancies and administering justice, has led to a dire situation in the Western District of Michigan. Judge Robert Holmes Bell, Chief Judge of the Western District, wrote to me and to others about the

situation in that district, where several judges on senior status—one over 90 years old—continue to carry heavy caseloads to ensure that justice is administered in that district. Judge Bell is the only active judge. If not for Republican objections, these nominations would be filled by now.

I urge the President to fill these and other outstanding vacancies with consensus nominees. The Administrative Office of the U.S. Courts list 59 judicial vacancies, 28 of which have been deemed to be judicial emergencies. So far in this Congress, the President has sent us 30 judicial nominations. There remain 17 judicial emergency vacancies—17—now without any nominee at all.

We continue to make progress today towards filling longstanding judicial vacancies. If the President consults with us and works with us to send consensus selections instead of controversial nominations for important lifetime appointments, we can make good progress filling vacancies.

The American people expect the federal courts to be fair forums where justice is dispensed without favor to the right or the left. I intend to do all that I can to ensure that the federal judiciary remains independent and able to provide justice to all Americans. These are the only lifetime appointments in our entire government, and they matter. I will also continue in the 110th Congress to work with Senators from both sides of the aisle, as I have with Senators CHAMBLISS and ISAKSON as well as Senators FEINSTEIN and BOXER. I congratulate Ms. Woods and Judge Gutierrez on their confirmations today.

Mrs. FEINSTEIN. Madam President, I yield back the time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Lisa Godbey Wood, of Georgia, to be U.S. District Judge for the Southern District of Georgia? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0 as follows:

[Rollcall Vote No. 35 Ex.]

YEAS—97

|           |           |         |
|-----------|-----------|---------|
| Akaka     | Bunning   | Cochran |
| Alexander | Burr      | Coleman |
| Allard    | Byrd      | Collins |
| Baucus    | Cantwell  | Conrad  |
| Bayh      | Cardin    | Corker  |
| Bennett   | Carper    | Cornyn  |
| Bingaman  | Casey     | Craig   |
| Bond      | Chambliss | Crapo   |
| Boxer     | Clinton   | DeMint  |
| Brown     | Coburn    | Dodd    |

|           |             |             |
|-----------|-------------|-------------|
| Dole      | Landrieu    | Rockefeller |
| Domenici  | Lautenberg  | Salazar     |
| Dorgan    | Leahy       | Sanders     |
| Durbin    | Levin       | Schumer     |
| Ensign    | Lieberman   | Sessions    |
| Enzi      | Lincoln     | Shelby      |
| Feingold  | Lott        | Smith       |
| Feinstein | Lugar       | Snowe       |
| Graham    | Martinez    | Specter     |
| Grassley  | McCain      | Stabenow    |
| Gregg     | McCaskill   | Stevens     |
| Hagel     | McConnell   | Sununu      |
| Harkin    | Menendez    | Tester      |
| Hatch     | Mikulski    | Thomas      |
| Hutchison | Murkowski   | Thune       |
| Inhofe    | Murray      | Vitter      |
| Inouye    | Nelson (FL) | Voinovich   |
| Isakson   | Nelson (NE) | Warner      |
| Kennedy   | Obama       | Webb        |
| Kerry     | Pryor       | Whitehouse  |
| Klobuchar | Reed        | Wyden       |
| Kohl      | Reid        |             |
| Kyl       | Roberts     |             |

## NOT VOTING—3

|       |           |         |
|-------|-----------|---------|
| Biden | Brownback | Johnson |
|-------|-----------|---------|

The nomination was confirmed.

## NOMINATION OF PHILIP S. GUTIERREZ

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Gutierrez nomination.

Mr. LEAHY. Madam President, Philip S. Gutierrez is the second nomination we consider today to a seat deemed to be a judicial emergency. We considered his nomination in the Judiciary Committee late last week and the two Senators from California have urged we move this nomination without further delay. I am pleased that we are able to do so today. As I said earlier before the vote to confirm Lisa Godbey Wood to fill an emergency vacancy in Georgia, Judge Gutierrez's nomination will be the 102nd to be confirmed while I have served as Judiciary Committee chairman and the 260th nominee of President Bush to be confirmed.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I thank the majority leader and Chairman LEAHY for bringing up the nomination of Philip Gutierrez. He has an outstanding academic record. His bachelor's degree is from the University of Notre Dame. He has a law degree from UCLA. He has been rated "well qualified" by the American Bar Association.

Judge Gutierrez was nominated during the last Congress and his nomination reported out of the Judiciary Committee with a favorable recommendation on September 21, 2006. The Senate, however, did not act on his nomination prior to adjournment of the 109th Congress.

President Bush renominated Judge Gutierrez in the 110th Congress and his nomination reported out of the Judiciary Committee on January 25, 2006.

Judge Gutierrez received his BA degree from the University of Notre Dame in 1981 and a JD from the UCLA School of Law in 1984.

Judge Gutierrez's substantial experience both in private practice and on the California Superior Court have prepared him to serve on the Federal bench.

He began his legal career as an associate with the Los Angeles firm Wolf,

Pocrass & Reyes from 1984 to 1986 and then worked as an associate with Kern & Wooley from 1986 to 1988. At both firms, Judge Gutierrez worked on civil tort liability litigation.

In 1988, Judge Gutierrez joined the law firm of Cotkin & Collins in Santa Ana as managing partner. At Cotkin, he focused his practice on business litigation with an emphasis in professional liability and insurance coverage.

In 1997, Judge Gutierrez was appointed to serve on the Whittier Municipal Court where he presided over misdemeanors, felony arraignments, and civil matters.

In 2000, he was elevated to the Los Angeles County Superior Court where he currently sits in the Pomona division. He presides over a range of significant civil and criminal matters, including felony cases.

Active in judicial governance and education, Judge Gutierrez currently serves on the Los Angeles County Superior Court Executive Committee and the California Judges Association's Committee on Judicial Ethics, of which he is a former chair.

He serves on several committees of the California Center for Judicial Education and Research.

The American Bar Association has rated Judge Gutierrez unanimously "well qualified."

Madam President, I know the Members on the Senate floor would like to have a detailed description of his résumé, but they will have to read it in the CONGRESSIONAL RECORD. I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## PHILIP STEVEN GUTIERREZ

UNITED STATES DISTRICT JUDGE FOR THE  
CENTRAL DISTRICT OF CALIFORNIA

Birth: October 13, 1959, Los Angeles, CA

Legal Residence: California.

Education: B.A., 1981, University of Notre Dame; J.D., 1984, U.C.L.A. School of Law.

Employment: Associate, Wolf, Pocrass & Reyes, 1984-1986; Associate, LaFollette, Johnson, DeHaas, Fesler & Ames, 07/86-09/86; Associate, Kern & Wooley, October 1986-1988; Managing Partner, Cotkin & Collins, 1988-1997; Judge, Whittier Municipal Court, 1997-2000; Judge, Los Angeles Superior Court, 2000-Present.

Selected Activities: Chair, California Judges Association, Committee on Judicial Ethics, 2003-2004; Vice Chair, 2002-2003; Member, Los Angeles Superior Court Executive Committee, 2005-Present; Member, California Center for Judicial Education and Research, 2000-Present; Seminar Leader and Faculty Member, B.E. Witkin California Judicial College, 2004-2005; Member, State Bar Committee on Professional Liability Insurance, 1991-1997; Member, American Bar Association, Tort and Insurance Practice Insurance Coverage Litigation Committee, 1992-1997; Member, Orange County Bar Association, 1988-1997; Board Member, Hispanic Bar Association of Orange County, 1993-1995; Board Member, Westside Legal Services, 1986-1998.

Madam President, I yield the floor.

Mr. CRAIG. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Philip S. Gutierrez, of California, to be United States District Judge for the Central District of California. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senator was necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER (Mr. SALAZAR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 36 Ex.]

## YEAS—97

|           |            |             |
|-----------|------------|-------------|
| Akaka     | Durbin     | Mikulski    |
| Alexander | Ensign     | Murkowski   |
| Allard    | Enzi       | Murray      |
| Baucus    | Feingold   | Nelson (FL) |
| Bayh      | Feinstein  | Nelson (NE) |
| Bennett   | Graham     | Obama       |
| Bingaman  | Grassley   | Pryor       |
| Bond      | Gregg      | Reed        |
| Boxer     | Hagel      | Reid        |
| Brown     | Harkin     | Roberts     |
| Bunning   | Hatch      | Rockefeller |
| Burr      | Hutchison  | Salazar     |
| Byrd      | Inhofe     | Sanders     |
| Cantwell  | Inouye     | Schumer     |
| Cardin    | Isakson    | Sessions    |
| Carper    | Kennedy    | Shelby      |
| Casey     | Kerry      | Smith       |
| Chambliss | Klobuchar  | Snowe       |
| Clinton   | Kohl       | Specter     |
| Coburn    | Kyl        | Stabenow    |
| Cochran   | Landrieu   | Stevens     |
| Coleman   | Lautenberg | Leahy       |
| Collins   | Leahy      | Sununu      |
| Conrad    | Levin      | Tester      |
| Corker    | Lieberman  | Thomas      |
| Cornyn    | Lincoln    | Thune       |
| Craig     | Lott       | Vitter      |
| Crapo     | Lugar      | Voinovich   |
| DeMint    | Martinez   | Warner      |
| Dodd      | McCain     | Webb        |
| Dole      | McCaskill  | Whitehouse  |
| Domenici  | McConnell  | Wyden       |
| Dorgan    | Menendez   |             |

## NOT VOTING—3

|       |           |         |
|-------|-----------|---------|
| Biden | Brownback | Johnson |
|-------|-----------|---------|

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OBAMA. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.